

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 700, "Aeronautics Administration," Chapter 710, "Airport Improvement Program," Chapter 715, "Commercial Air Service Marketing Program," Chapter 716, "Commercial Air Service Vertical Infrastructure Program," and Chapter 717, "General Aviation Airport Vertical Infrastructure Program," Iowa Administrative Code.

The Department is proposing changes to five chapters concerning aviation. Generally, these proposed amendments make the following changes: update the contact information, provide updates to reflect current practices, and provide consistency in documenting eligibility, funding, application processes, review and approval of projects and project administration.

The following summarizes the proposed changes for each chapter:

Chapter 700: The definition of "sponsor" is clarified.

Chapter 710: The Web site addresses are corrected; application instructions and procedures are updated to reflect current processes and for consistency with other grant programs; "airport enhancements" is added to the list of eligible projects; funding information is included; "emergency operations project" is changed to "immediate safety enhancement project" to reflect current program terminology; two additional factors in reviewing the applications are added to reflect current practice; and an implementation sentence is corrected.

Chapter 715: The name of the program is changed to reflect current practice; the purpose of the program is expanded to place more emphasis on sustaining and enhancing air service; and the application instructions, procedures, types of eligible project activities, selection criteria and project administration are updated to reflect current practices.

Chapter 716: The name of the program is changed to reflect current practice; citations to the Iowa Code are corrected; funding information is added; and application instructions, procedures and project administration are updated to reflect current processes and for consistency with other grant programs.

Chapter 717: The name of the program is changed to reflect current practice; citations to the Iowa Code are corrected; application instructions, procedures, applicant eligibility, funding information, and project administration are updated to reflect current processes and for consistency with other grant programs; and the items the Department shall consider when selecting projects are updated to reflect current procedure.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than January 28, 2014.

A meeting to hear requested oral presentations is scheduled for Thursday, January 30, 2014, at 10 a.m. at the Iowa Department of Transportation's Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 8.57B, 328.12 and 330.13.

The following amendments are proposed.

ITEM 1. Amend rule 761—700.1(328) as follows:

761—700.1(328) Definitions. The definitions in Iowa Code section 328.1 and the following definitions shall apply to 761—Chapters 700 to 799.

“FAA:” ~~The means the~~ Federal Aviation Administration.

“Sponsor:” ~~The means the~~ person or governmental subdivision responsible that has the authority for improving, maintaining and operating an aviation facilities facility.

This rule is intended to implement Iowa Code section 328.1.

ITEM 2. Amend rule 761—700.2(17A) as follows:

761—700.2(17A) ~~Location and submission of documents~~ Information and forms. Program information, forms and application instructions are available on the department's Web site at www.iowadot.gov/aviation. ~~Requests for information, assistance or forms and all submissions shall be sent to:~~ such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691. Information and forms are also available through the Internet at <http://www.iawings.com>.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 3. Amend rule 761—710.3(17A) as follows:

761—710.3(17A) ~~Location and information~~ Information and forms. Program information, forms and application instructions are available on the department's Web site at www.iowadot.gov/aviation. ~~Requests for information, forms or assistance in completing the forms, and all submissions shall be sent to:~~ such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1875. Information and forms are also available through the Internet at <http://www.iawings.com>.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 4. Amend rule 761—710.4(330) as follows:

761—710.4(330) Federal airport improvement funds.

710.4(1) Applicant eligibility. A governmental subdivision owning a public airport that is listed in the Federal Aviation Administration's (FAA) National Plan of Integrated Airport Systems (NPIAS) is eligible to apply for federal funds. The NPIAS published report is available at the FAA Web site: ~~www.faa.gov/arp/planning/npias~~ www.faa.gov/airports. An airport that receives federal primary commercial service entitlement funds is not required to submit preapplications ~~through the department.~~

710.4(2) Project eligibility. Projects must meet the FAA eligibility guidelines for federal airport improvement projects. Federal airport improvement program guidelines are available at the FAA Web site: ~~www.faa.gov/arp/ace/aip/aip-guide.cfm~~ www.faa.gov/airports.

710.4(3) Preapplication.

a. No change.

b. The completed preapplication for federal airport improvement funds shall be ~~sent~~ submitted to the department ~~at the address in rule 710.3(17A)~~ according to the method and time frame specified in the annual application instructions.

710.4(4) Project prioritization.

a. and b. No change.

c. The department shall ~~send~~ submit the preapplications with priorities identified to the FAA₂ and the FAA will contact the applicant directly concerning all subsequent action on the preapplication.

This rule is intended to implement Iowa Code section 330.13.

ITEM 5. Amend rule 761—710.5(328) as follows:

761—710.5(328) State airport improvement funds.

710.5(1) No change.

710.5(2) Project eligibility and funding.

a. No change.

b. Airport projects may include, but are not limited to: runway, taxiway, and apron surfaces; lighting and navigational aids; obstruction removal; grading, drainage, and surfacing airfield surfaces and protection areas; signage, security access control and lighting; ~~and planning; and other airport enhancements.~~ A project that involves airfield infrastructure shall comply with the airport master plan or airport layout plan as adopted by the governmental subdivision.

c. The department establishes the maximum percentage of state share of eligible projects. The department may annually set a maximum dollar amount per award. Funding criteria are included in application instructions provided to airport sponsors.

710.5(3) Application for funding.

a. The department shall ~~distribute~~ make available the application instructions and forms ~~annually~~ to each publicly owned airport in Iowa. A complete application will include all materials identified in the annual application instructions.

b. Project applications shall be submitted to the ~~office of aviation~~ department by the due date specified in the instructions.

c. ~~Emergency operations~~ Immediate safety enhancement project applications may be submitted at any time during the year to the ~~office of aviation~~ department according to instructions that are part of the application form.

d. The department shall ~~send~~ make available applications for ~~any~~ special projects to all eligible airports. Airport sponsors shall submit applications for special projects to the department as specified in the application instructions.

710.5(4) Review and approval. The department shall review each completed application and evaluate the impact of the project on the aviation system considering the following factors: state system plan airport roles, goals and objectives; justification provided in the application; ~~and~~ ability to enhance aeronautical activity for the airport and system; local participation; and multijurisdictional support of the airport. The department shall recommend projects to the transportation commission for approval. The commission is responsible for approving the projects to be funded.

710.5(5) Project agreement and responsibilities administration.

a. and b. No change.

c. The department may inspect the improvement for compliance with the agreement and may audit all project costs incurred ~~before sending the final payment to the governmental subdivision.~~

710.5(6) No change.

This rule is intended to implement Iowa Code ~~chapters chapter 328 and 329 and sections 384.95 to 384.103 and 573.12.~~

ITEM 6. Amend **761—Chapter 715**, title, as follows:

COMMERCIAL AIR SERVICE MARKETING DEVELOPMENT PROGRAM

ITEM 7. Amend rule 761—715.1(328) as follows:

761—715.1(328) Purpose. The purpose of the commercial air service marketing development program is to provide funding for marketing, advertising and public relations programs to improve scheduled air service and increase passenger traffic at Iowa's commercial service airports help commercial service airports sustain and enhance available air service options for the traveling public.

ITEM 8. Amend rule 761—715.3(328) as follows:

761—715.3(328) Program administration Eligibility and funding.

715.3(1) Participation in the commercial air service marketing development program shall be limited to airports currently receiving scheduled commercial air service and designated as Level-I commercial service airports in the Iowa aviation system plan.

715.3(2) The transportation commission shall establish annually:

- a. The maximum amount of funds to be allocated to the air service marketing development program for the program year.
- b. The amount to be allocated to each commercial service airport for sustainment project activities.
- c. The funding ratio to be used to reimburse airport sponsors for eligible project costs The amount of funds that will be added to the enhancement fund pool.

715.3(3) The program shall be administered by the department's office of aviation. Information Program information, instructions and application forms may be obtained from the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1689. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691; or through the Internet at <http://www.iawings.com>.

715.3(4) Allocated program funds shall be available to each commercial service airport until the end of the state's fiscal year for the time period specified in the application instructions and in the agreement.

ITEM 9. Amend rule 761—715.4(328) as follows:

761—715.4(328) Eligible project activities. Activities that are eligible for reimbursement include, but are not limited to, the following:

~~715.4(1) Advertising.~~

~~715.4(2)~~ **715.4(1)** Public relations activities Activities to sustain or improve air service, which include, but are not limited to, marketing, advocacy, educational efforts and leveraging local and federal funds in collection of data, studies or other efforts.

~~715.4(3)~~ **715.4(2)** Service improvement enhancement activities—including, which include, but are not limited to, route analyses, service studies, airline presentations and other activities targeted at increasing air service from an existing or new entry airline market entry support, financial incentives and data analysis studies to help airports enhance service on new routes, provide for entry of a new carrier, or achieve an increase in seat capacity on existing routes.

ITEM 10. Rescind and reserve rule **761—715.5(328).**

ITEM 11. Amend rule 761—715.6(328) as follows:

761—715.6(328) Project selection criteria. Projects Sustainment projects at each commercial service airport that meet the eligibility criteria will may be funded up to the limit of each airport's allocation. Enhancement project requests that meet program requirements may be funded if funding is available in the enhancement fund pool.

ITEM 12. Amend rule 761—715.7(328) as follows:

761—715.7(328) Application. Completed applications shall be submitted to the office of aviation and shall contain: department and include the information requested in the annual application instructions.

~~715.7(1) General information, including the airport sponsor's name, contact person, mailing address and telephone number.~~

~~715.7(2) A detailed description of the project, including its purpose.~~

~~715.7(3) Cost information, including the estimated total cost of the project and an itemized breakdown of project components.~~

~~715.7(4) The amount of funds requested for the project.~~

~~715.7(5) Rescinded IAB 1/7/04, effective 2/11/04.~~

~~715.7(6) A resolution from the airport sponsor endorsing the proposal and stating that local matching funds are or will be available.~~

ITEM 13. Amend rule 761—715.8(328) as follows:

761—715.8(328) Project administration.

~~715.8(1) *Agreement.* After a funding commitment has been made for a project application has been approved, the department shall enter into a project agreement with the airport sponsor that specifies the responsibilities of the sponsor. The agreement shall specify the amount of state funds, the contract period, the payment process, and the responsibilities for project planning, development, and reporting. The department may inspect the improvement for compliance with the agreement and may audit all project costs.~~

~~715.8(2) No change.~~

~~715.8(3) *Remedies for noncompliance with project agreement.* The department may revoke the funding commitment and require repayment of funds if the terms of the project agreement are not fulfilled.~~

~~715.8(4) *Cost overruns.* Funds committed for a project are for a maximum dollar amount. Cost overruns shall be the responsibility of the airport sponsor.~~

ITEM 14. Amend **761—Chapter 716**, title, as follows:

COMMERCIAL AIR SERVICE VERTICAL INFRASTRUCTURE PROGRAM

ITEM 15. Amend rule 761—716.2(328) as follows:

761—716.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. Also, In addition:

“Vertical infrastructure” is means the same as defined in Iowa Code section 8.57, subsection 5 8.57B.

ITEM 16. Amend rule 761—716.3(328) as follows:

761—716.3(328) Information and forms. Program information, instructions, and forms ~~may be obtained from~~ are available on the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691; or through the Internet at <http://www.iawings.com>.

ITEM 17. Amend rule 761—716.7(328) as follows:

761—716.7(328) Work plan Project application and review.

716.7(1) Each airport shall ~~develop a work plan of~~ submit an application with the project or projects it intends to accomplish under the program with the allocated funding. A work plan shall contain: The completed application shall include the information and documents identified in the application instructions. The complete application shall be submitted to the department according to the annual application instructions.

~~a. General information, including the airport sponsor's name, contact person, mailing address and telephone number.~~

~~b. A brief description of each project, including its purpose.~~
~~c. Cost information for each project, including total project cost and an itemized breakdown of project components.~~

~~d. A resolution from the airport sponsor endorsing the work plan.~~

~~716.7(2) Completed work plans shall be submitted to the office of aviation. The department shall review projects for eligibility and recommend projects and funding levels to the transportation commission. Funding criteria are included in application instructions provided to airport sponsors.~~

~~716.7(3) The transportation commission shall determine the eligibility of projects contained in work plans is responsible for approving the projects to be funded.~~

ITEM 18. Amend rule 761—716.8(328) as follows:

761—716.8(328) Project administration.

~~716.8(1) Agreement. After the eligibility of projects in a work plan has been determined the projects are approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor. The agreement shall specify the amount of state funds, the contract period, the payment process, and the responsibilities for project planning, development, and reporting. The department may inspect the improvement for compliance with the agreement and may audit all project costs.~~

~~716.8(2) Payments. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis. Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.~~

~~716.8(3) Cost overruns. Rescinded IAB 1/7/04, effective 2/11/04.~~

ITEM 19. Amend **761—Chapter 716**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~8.57~~ 8.57B and 328.12.

ITEM 20. Amend **761—Chapter 717**, title, as follows:

GENERAL AVIATION AIRPORT VERTICAL INFRASTRUCTURE PROGRAM

ITEM 21. Amend rule 761—717.1(328) as follows:

761—717.1(328) Purpose. The purpose of the general aviation ~~airport~~ vertical infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's general aviation airports.

ITEM 22. Amend rule 761—717.2(328) as follows:

761—717.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. In addition:

"Vertical infrastructure" is means the same as defined in Iowa Code section ~~8.57, subsection 6~~ 8.57B.

ITEM 23. Amend rule 761—717.3(328) as follows:

761—717.3(328) Information and forms. ~~Information~~ Program information, instructions, and application forms may be obtained from the department's Web site at www.iowadot.gov/aviation. Requests for such materials or assistance may also be made by calling the office of aviation at (515)239-1048. Submission of application materials shall be made according to the annual application instructions included in the application materials. The office of aviation mailing address is: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; ~~telephone (515)239-1875.~~

ITEM 24. Amend rule 761—717.4(328) as follows:

761—717.4(328) Applicant eligibility. ~~Eligible airports are those general aviation airports that are in compliance with minimum state safety standards (see 761—Chapter 720). The applicant must be the governmental subdivision charged with managing the general aviation airport. An airport sponsor, as~~

defined in rule 761—700.1(328), of a publicly owned general aviation airport is eligible to apply for funding.

ITEM 25. Amend rule 761—717.7(328) as follows:

761—717.7(328) Funding. ~~The department may fund up to 85 percent~~ establishes the maximum percentage of state share of an eligible project projects. The department may annually set a maximum dollar amount per award. Funding criteria are included in application instructions provided to airport sponsors.

ITEM 26. Amend rule 761—717.8(328) as follows:

761—717.8(328) Project priorities. The department shall consider the following in project selection: airport role and objectives defined in the state aviation system plan; demonstration of increased aeronautical activity; ~~and justification showing the ability to produce additional income for the airport for the project;~~ local participation; and multijurisdictional support of the airport.

ITEM 27. Amend rule 761—717.9(328) as follows:

761—717.9(328) Project applications.

717.9(1) The department shall make available application instructions and forms to each publicly owned airport in Iowa. Project applications shall be submitted to the office of aviation department as directed in the annual application instructions.

717.9(2) ~~Each application shall contain:~~ include the information and forms identified in the annual application instructions.

a. ~~General information, including the airport sponsor's name, contact person, mailing address and telephone number.~~

b. ~~A capital improvement program (CIP) data sheet. The CIP data sheet shall include a sketch of the project, a brief description of the project and its purpose, and cost information including total project cost and an itemized breakdown of project components.~~

c. ~~A resolution from the airport sponsor endorsing the project and authorizing the necessary local match funding.~~

ITEM 28. Amend rule 761—717.11(328) as follows:

761—717.11(328) Project agreement and administration.

717.11(1) Agreement. After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor. The agreement shall specify the amount of state funds, the contract period, the payment process, and the responsibilities for project planning, development, and reporting. The department may inspect the improvement for compliance with the agreement and may audit all project costs.

717.11(2) Payments. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis. Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.

~~**717.11(3) Cost overruns.** Rescinded IAB 11/14/01, effective 12/19/01.~~

ITEM 29. Amend **761—Chapter 717**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~8.57~~ 8.57B and 328.12.